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**IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
OKLAHOMA**

TIMOTHY BLAINE LOVELACE,)	Case No.: CIV. NO.:
)	
Plaintiff,)	COMPLAINT
)	
vs.)	
)	
UNITED STATES SOCIAL SECURITY)	
)	
ADMINISTRATION,)	
)	
Defendant)	

COMPLAINT FOR INJUNCTIVE RELIEF

1. This is an action under the Freedom of Information Act, (FOIA) The Electronic Freedom of Information Act (EFOIIA) and the Privacy Act (PA); 5 U.S.C. § 552(a) et al and 5 U.S.C. §552a et al for injunctive and other appropriate relief for the disclosure and release of agency records improperly withheld from Plaintiff by the United States Social Security Administration.

JURISDICTION AND VENUE

2. This court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B) and §552a et seq.. This court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

THE PARTIES

3. Plaintiff: Timothy Blaine Lovelace is a disabled individual, citizen of the United States of America, currently seeking disability benefits from the Defendant.

4. Defendant is the Social Security Administration of the United States government and an “agency” within the meaning of 5 U.S.C. § 552(f) and §552a(a)(1).

Plaintiff’s FOIA EFOIA and PA Request and Defendant’s Response

5. By letter to Defendant dated December 23, 2004 and received December 30, 2004, the Plaintiff requested copies of:

“All Claim file “CF” records, correspondence and documents, verbal and/or written as held by the Agency in a system of records that address, identify, or discuss SSA Claim No. *****6401 as pertains to the individual identified as Timothy Blaine Lovelace as regards his request for disability benefits before the agency.

All Claim file “CF” records, medical reports, documents, exhibits verbal and/or written as held by the Agency in a system of records concerning any health, care and treatment of the individual identified as Timothy Blaine Lovelace in SSA Claim No.: *****6401 as regards his request for disability benefits before the agency.

All Claim file “CF” records, reports, correspondence, telephone calls, documents submitted to, or received by any agency person or employee or representative, medical specialist, vocational specialist, to or from, the agency, verbal and/or written as held by the Agency in a system of records in regard to SSA Claim No. *****6401 as pertains to the individual identified as Timothy Blaine Lovelace as regards his request for disability benefits before the agency.”

1 The Plaintiff specifically noted within said request that "Section 205(c)(2)(A) of the Act
2 (42 U.S.C. 405(c)(2)(A)) *requires* that the SSA provide certain information upon request to a
3 worker, her or his legal representative, her or his survivor, or the legal representative of the
4 worker's estate. SSA complies with the access provision of the Privacy Act by providing one free
5 copy of CF material to the claimant or the representative when access is for program purposes,
6 such as pursuing a benefit under the Social Security Act. Hallex sec. 1-2-100 et seq."

7
8 6. Said records and requests were necessary to the Plaintiff as vital to Plaintiff's ability to
9 proceed with his currently pending claim for disability benefits under the Social Security Act.

10 7. Pursuant to the FOIA, EFOIA and PA, the Plaintiff also requested production from
11 the Defendant as "required" by statute for "all materials subject to paragraph (a)(2) of §552
12 created on or after November 1, 1996 to make available said information requested by computer
13 telecommunication, as well as in hard copy and if you, the Agency lack the means for online
14 availability, such requested materials must be made available to Requestor in some other
15 electronic form. You, the Agency, are further "required" pursuant to paragraph (a)(3) to provide
16 the requested information to the Requestor in the form requested, including electronic form.
17 Requestor hereby accordingly demands that the requested materials be produced and made
18 available to Requestor in either of the following formats (1) in .pdf electronic format delivered to
19 Requestor's email address of linehanpc@coxinet.net (2) or in .pdf electronic format on CD-R/W
20 or DVD-R/W disc mailed to 3126 S. Boulevard, No. 286, Edmond, Oklahoma 73013."

21
22 8. On January 13, 2005 the Defendant responded with letter stating that the Defendant
23 had determined that the requested file records were located within in its Social Security Office in
24 Oklahoma City, Oklahoma and that office was to provide the Plaintiff a copy of the information
25 requested.

1 9. No copy of information requested has been timely received from the Defendant.

2 10. The Defendant to date has failed to timely produce the requested file as demanded by
3 the Plaintiff.

4 **Defendant's Failure to Timely Respond to Plaintiff's Request**

5 11. By certified mail receipt no. 7003 3110 0006 3159 3691 dated December 30, 2004
6 and by letter response dated January 13, 2005 the Defendant admitted receipt of the Plaintiff's
7 original request and possession of the requested file documents.

8 12. To date, the Defendant has refused and otherwise failed to comply or respond to
9 Plaintiff's request for production of the requested file documents.

10 13. Plaintiff has exhausted the applicable administrative remedies with respect to its
11 FOIA, EFOIIA and PA appeal to the Defendant.

12 **Defendant's Failure to Timely Respond to Plaintiff's Request**

13 14. By letter dated January 13, 2005 Defendant acknowledged receipt of plaintiff's
14 FOIA, EFOIIA and PA request.

15 15. To date, the Defendant has complied with plaintiff's request, despite the requirement
16 under FOIA, EFOIIA that it do so within twenty (20) working days.

17 16. Plaintiff has exhausted the applicable administrative remedies with respect to its
18 FOIA, EFOIIA request to Defendant.

19 **CAUSE OF ACTION**

20 **Violations of the FOIA, EFOIIA and PA for Wrongful Withholding of Agency Records**

21 17. Plaintiff repeats and realleges paragraphs 1-16.

22 18. Defendants have wrongfully withheld and continue to wrongfully withhold agency
23 records requested by Plaintiff.

1 19. Plaintiff has exhausted the applicable administrative remedies with respect to
2 Defendants' wrongful withholding of the requested records.

3 20. Plaintiff is entitled to injunctive relief with respect to the release, production and
4 disclosure of the requested documents.

5 **Requested Relief**

6 WHEREFORE, Plaintiff prays that this Court:

7 A. order Defendants to disclose and produce the requested records in their entireties and
8 make and deliver copies available to Plaintiff as so demanded;

9 B. provide for expeditious proceedings in this action;

10 C. award Plaintiff its costs and reasonable attorneys fees incurred in this action;

11 and
12

13 D. grant such other relief as the Court may deem just and proper.
14

15 Dated this March 28, 2005

16
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23 James R. Linehan P.C.

24 **CERTIFICATE OF SERVICE**

25 This is to certify that a true and correct copy of the above and foregoing complaint was
mailed, postage prepaid, by electronic service or by depositing same in the U.S. Mail on this
Monday, March 28, 2005 and addressed to:

1). General Counsel, Social Security Administration, Room 617, Altmeyer Building, 6401
Security Boulevard, Baltimore, Maryland 21235, and;

- 1 2). U.S. Attorney General, Justice Department, 10th and Constitution Avenue, Washington,
2 D.C., 20530, and;
3 3). United States Attorney, 210 W. Park Ave, Suite 400, Oklahoma City, Oklahoma 73102
4

5 Dated this March 28, 2005
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